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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,836	08/02/2001	Douglas A. Newberg	2153-0116P	4362

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

BEX, PATRICIA K

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/16/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/919,836

Applicant(s)

NEWBERG, DOUGLAS A.

Examiner

P. Kathryn Bex

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10,12,14-21 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17,20,21,31-34 and 36 is/are allowed.
- 6) ☒ Claim(s) 10,12,18,19,27-29 and 35 is/are rejected.
- 7) ☒ Claim(s) 23-26 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The addition of claims 35-36 is acknowledged and has been entered into the record.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 19, 2003 has been entered.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10, 12, 18-19, 27-29, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto *et al* (EP 913 465 A1).

Hashimoto *et al* teaches an automated sampling system comprising: a sealed first partition chamber (e.g. housing R) enclosing a robot device E (e.g. conveyor). The first partition chamber comprising a sealable input port for work base entry from work base stocker (e.g. empty receptacle holder S) and a sealable output port G5 for work base exit to a different work base stocker (e.g. filled receptacle holder S) positioned on the other side of the partition chamber R (Figs. 38-39). Each of the stockers being removably mounted to the partition chamber such that the environment inside the partition chamber and the environment inside the

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receptacle holder remain sealed from each other and the ambient environment outside the partition chamber. The work base being moveable from the empty receptacle holder into the partition chamber and filled with a flowable material via a flowable material supplier F8, and then moved to the filed receptacle holder to be removed therewith. Additionally, Hashimoto *et al* teach disinfectant spray devices G6 inside the chamber S and the robot chamber R being operable to supply a flowable material (e.g. sterilizing agent) into the interior of the chambers (column 39, line 24- column 42, line 58).

***Response to Arguments***

5. Applicant's arguments with respect to claims 10,12,18,19,27-29 and 35 have been considered but are moot in view of the new ground(s) of rejection. See above Office Action.

***Allowable Subject Matter***

6. Claims 14-17, 20-21 31-34, 36 are allowable.

7. Claims 23-26, 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: see previous Office Action.

***Conclusion***

9. Claims 14-17, 20-21, 31-34, 36 are allowable. Claims 10, 12, 18-19, 27-29, 35 are rejected. Claims 23-26, 30 are objected to.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Bex whose telephone number is (703) 306-5697. The

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examiner can normally be reached on Mondays-Thursdays, alternate Fridays from 6:00 am to 3:30 pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 308-4037.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9310 for official papers prior to mailing of a Final Office Action. For after-Final Office Actions use (703) 872-9311. For unofficial or draft papers use fax number (703) 305-7719. Please label all faxes as official or unofficial. The above fax numbers will allow the paper to be forwarded to the examiner in a timely manner.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*Kathryn Bex*

P. Kathryn Bex  
Patent Examiner  
AU 1743  
April 9, 2003

*Jill Warden*  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700